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EXAMINER	
ROBINSON, KITO R	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/787,495	Applicant(s) HOROWITZ ET AL.	
	Examiner KITO R. ROBINSON	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 03 December 2008.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) 7 & 14 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-6,8-13 and 15-27 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 25 Febuary 2004 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 08 December 2008.
2. Claim 13 have been amended.
3. Claims 7 & 14 have been canceled.
4. Claims 1-16, 8-13 & 15-27 are currently pending and have been examined.

Response to Amendment

5. Applicant's arguments received on 08 December 2008 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled “Status of Claims.” This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.
6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. However, in an effort to elucidate the applicability of the selected prior art, the Examiner has provided a riposte to the Applicant’s arguments.
   See rejection below.

7. With regard to the limitations of claim 1, Applicant argues that the prior art does not teach “converting assets of the second investment pool into a fourth investment pool having the assumed average first rate of return when the first investment pool is exhausted due to the distribution";

The Examiner points out that the limitation is a conditional limitation and if the first condition is not met i.e. “first investment pool is not exhausted due to the distribution than the converting assets of the second investment pool to into a fourth investment pool, step will not occur. The rational holds true for claim 13 as well.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1-6, 8-13 & 15-27 are rejected under 35 U.S.C. § 101 based on Supreme Court precedent, and recent Federal Circuit decisions, a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876). The process steps in claims (1-6, 8-13 & 15-27) are not tied to a particular machine or apparatus nor do they execute a transformation. Thus, they are non-statutory.

('A process is...an act, or a series of acts, performed upon the subject-matter to be transformed and reduced to a different state or thing.').[7] A claimed process involving a fundamental principle that uses a particular machine or apparatus would not pre-empt uses of the principle that do not also use the specified machine or apparatus in the manner claimed. And a claimed process that transforms a particular article to a specified different state or thing by applying a fundamental principle would not pre-empt the use of the principle to transform any other article, to transform the same article but in a manner not covered by the claim, or to do anything other than transform the specified article.” (In re Bilski, 88 USPQ2d 1385, 1391 (Fed. Cir. 2008))

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claim 1-4, 13, 22-24, 26 & 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singletary [Choices for Conservative Savers. The Washington Post. Washington, D.C.: Sep 15, 2002. p. H.01] in view of Frattalone US 2002/0019793 A1.

Regarding Claim 1, Singletary discloses, A method for allocating assets of a portfolio, which comprises the steps of:

- investing a first portion of the assets in a first investment pool at an assumed average first rate of return; **(¶ 3, 14, 16)**
- investing a second portion of the assets in a second investment pool at an assumed average second rate of return being greater than the assumed average first rate of return; **(¶ 3, 13, 14)**
- investing a third portion of the assets in a third investment pool at an assumed average third rate of return being greater than the assumed average second rate of return; **(¶ 3, 13, 14)**
- converting assets of the second investment pool into a fourth investment pool having the assumed average first rate of return when the first investment pool is exhausted **(see at least paragraph 0013)**

Singletary does not disclose the following, however, Frattalone does:

- setting a size of the first portion held in the first investment pool to be large enough to handle anticipated distributions of cash flow needs for at least three years **(see at least Paragraph 0012)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary with the technique of Frattalone because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by

dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 2, Singletary and Arena et al. disclose, The method according to claim 1.

Regarding Claim 2, Singletary further discloses,

- which further comprises distributing assets, being a combination of income and return of principle, from the first investment pool before distributing assets from any other investment pool. **(¶ 3, 13, 14)**

Regarding Claim 3, Singletary further discloses, The method according to claim 2,

- which further comprises distributing the assets from the first investment pool on a weekly, monthly or annual basis until the first investment pool is completely exhausted from the distributions of income and return of principle. **(¶ 3, 13, 14)**

Regarding Claim 4, Singletary discloses, The method according to claim 2.

- after the assets of the second investment pool have been converted to the fourth investment pool having lower risks, distributing assets from the fourth investment pool when the assets of the first investment pool are completely exhausted due to the distributions of income and return of principle **(see at least paragraph 0013)**.

Regarding Claim 7, Cancelled

Regarding Claim 13, Singletary discloses, A method for allocating assets of a portfolio, which comprises the steps of:

- investing a first portion of the assets in a first investment pool at an assumed average first rate of return; **(¶ 3, 13, 14, 16)**
- investing a second portion of the assets in a second investment pool at an assumed average second rate of return being greater than the assumed average first rate of return; **(¶ 3, 13, 14, 16)**
- investing a third portion of the assets in a third investment pool at an assumed average third rate of return being greater than the assumed average second rate of return; **(¶ 3, 13, 14, 16)**
- investing a fourth portion of the assets in a fourth investment pool at an assumed average fourth rate of return being greater than the assumed average third rate of return; **(¶ 3, 13, 14, 16)**
- investing a fifth portion of the assets in a fifth investment pool at an assumed average fifth rate of return being greater than the assumed average fourth rate of return; **(¶ 3, 13, 14, 16)**
- investing a sixth portion of the assets in a sixth investment pool at an assumed average sixth rate of return being greater than the assumed average fifth rate of return; **(¶ 3, 13, 14, 16)**
- designating the first investment pool to be a pool from which assets may be distributed from until the first investment pool is exhausted. **(¶ 3, 13, 14, 16)**
- converting assets of the second investment pool into a seventh investment pool having the assumed average first rate of return when the first investment pool is exhausted due to distributions **(see at least paragraph 0013)** and
- distributing the assets from the seventh investment pool when the assets in the first investment pool are exhausted **(see at least paragraph 0013)**.

Singletary do not disclose the following, however Frattalone does:

- thus allowing the assets in the second pool through the sixth pool to experience a compounding effect and tax-efficiency by not being distributed until after the first investment pool is exhausted **(see at least paragraph 0006)**;

- investment pool, selected from the group consisting of money market funds, certificates of deposits, treasuries and short term bank loans, at an assumed average first rate of return **(see at least paragraph 0005)**;
- second investment pool, selected from the group consisting of corporate bonds and municipality bonds, at an assumed average second rate of return being greater than the assumed average first rate of return **(see at least paragraph 0005)**;
- a third investment pool, selected from the group consisting of corporate bonds, convertible bonds, and preferred stock, at an assumed average third rate of return being greater than the assumed average second rate of return **(see at least paragraph 0006)**;
- a fourth investment pool, selected from the group consisting of large cap equities and real estate, at an assumed average fourth rate of return being greater than the assumed average third rate of return **(see at least paragraph 0008)**;
- a fifth investment pool, selected from the group consisting of mid-cap equities, high yield bonds, emerging market debt, and international bonds, at an assumed average fifth rate of return being greater than the assumed average fourth rate of return, the fifth investment pool formed of investments containing equities **(see at least paragraph 0005 & 0006)**;
- a sixth investment pool, selected from the group consisting of small-cap equities, international equities, emerging market equities, limited partnerships, managed futures, and hedge funds, at an assumed average sixth rate of return being greater than the assumed average fifth rate of return **(see at least paragraph 0005 & 0006)**;

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary with the technique of Frattalone because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

<u>Regarding Claim 14,</u> Cancelled

Regarding Claim 22, Singletary further discloses,

- which further comprises distributing the assets only from the first investment pool until the first investment pool is exhausted. **(¶ 3, 13, 14, 16)**

Regarding Claim 23, Singletary further discloses,

- which further comprises designating the distributions to be a combination of income and return of principle. **(¶ 3, 13, 14, 16)**

Regarding Claim 24, Singletary further discloses,

- which further comprises distributing the assets weekly, monthly, yearly, or as desired. **(¶ 3, 13, 14, 16)**

Regarding Claim 26, Singletary further discloses,

- which further comprises investing the assets in each subsequent investment pool for a longer time period than a previous investment pool where the assets of the sixth investment pools are invested for a longest time period and the assets of the first investment pool are invested for the shortest period of time. **(¶ 3, 13, 14, 16)**

Regarding Claim 27, Singletary discloses,

- which further comprises investing the assets in each subsequent investment pool for a longer time period than a previous investment pool where the assets of the third investment pools are invested for a longest time period and the assets of the first investment pool are invested for the shortest period of time. **(¶ 3, 13, 14, 16)**

12. Claims 5, 6, 11, 12, 15-21 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singletary in view of Frattalone and in further view of Arena et al. [U.S. Pub. No. 2002/0174045].

Regarding Claim 5, Singletary and Frattalone disclose, The method according to claim 4. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 5, Arena et al. further discloses, The method according to claim 4, which further comprises:

- bifurcating assets of the third investment pool into a fifth investment pool having the assumed average first rate of return and a sixth investment pool having the assumed average second rate of return when the fourth investment pool is completely exhausted due to the distributions of income and return of principle; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing assets from the fifth investment pool until the fifth investment pool is exhausted due to the distributions of income and return of principle. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 6, Singletary and Frattalone disclose, The method according to claim 5. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 6, Arena et al. further discloses, The method according to claim 5, which further comprises:

- converting assets of the sixth investment pool into a seventh investment pool, having the assumed average first rate of return, when the fifth investment pool is exhausted due to the distributions of income and return of principle; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing assets from the seventh investment pool until the seventh investment pool is exhausted due to distributions of income and return of principle. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 11, Singletary discloses, A method for allocating assets of a portfolio, which comprises the steps of:

- investing the assets in a multiplicity of investment pools each having different assumed average rates of return and each having greater and greater time horizons; **(¶3, 13, 14, 16)**
- designating a first investment pool of the investment pools to have an assumed average first rate of return being a lowest rate of return of all the investment pools and from which distributions are first withdrawn from, as needed, before withdrawing funds from any of the other investment pools; **(¶3, 13, 14, 16)**

Regarding Claim 11, Singletary fails to disclose:

- converting at least part of the assets of a second investment pool having an assumed average second rate of return being a next lowest rate of return into a new investment pool when the first investment pool is exhausted due to distributions, the assets of the new investment pool being invested at a same assumed average rate of return as the first investment pool and being available for distribution.

Regarding Claim 11, Arena et al. discloses:

- converting at least part of the assets of a second investment pool having an assumed average second rate of return being a next lowest rate of return into a new investment pool when the first investment pool is exhausted due to distributions, the assets of the new investment pool being invested at a same assumed average rate of return as the first investment pool and being available for distribution. **(¶ 8, 66,67, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 12, Singletary, Frattalone and Arena disclose, The method according to claim 11.
Regarding Claim 12, Singletary further discloses,

- which further comprises designating the distributions to be a combination of income and return of principle. **(¶ 3, 13, 14, 16)**

Regarding Claim 15, Singletary and Frattalone disclose, The method according to claim 14. Singletary and Frattalone do not disclose the following however, Arena does:
Regarding Claim 15, Arena et al. further discloses, The method according to claim 14, which further comprises:

- bifurcating assets of the third investment pool into an eighth investment pool having the assumed average first rate of return and a ninth investment pool having the assumed average second rate of return when the seventh investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing the assets from the eighth investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 16, Singletary and Frattalone disclose, The method according to claim 15. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 16, Arena et al. further discloses, The method according to claim 15, which further comprises:

- converting assets of the ninth investment pool into a tenth investment pool having the assumed average first rate of return when the eighth investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing the assets from the tenth investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 17, Singletary and Frattalone disclose, The method according to claim 16. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 17, Arena et al. further discloses, The method according to claim 16, which further comprises:

- bifurcating assets of the fourth investment pool into an eleventh investment pool having the assumed average first rate of return and a twelfth investment pool having the assumed average second rate of return when the tenth investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing the assets from the eleventh investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 18, Singletary and Frattalone disclose, The method according to claim 17. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 18, Arena et al. further discloses, The method according to claim 17, which further comprises:

- converting the assets of the twelfth investment pool into a thirteenth investment pool having the assumed average first rate of return when the eleventh investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing the assets from the thirteenth investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 19, Singletary and Frattalone disclose, The method according to claim 18. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 19, Arena et al. further discloses, The method according to claim 18, which further comprises:

- converting the assets of the fifth investment pool into three new investment pools, including a fourteenth investment pool having the assumed average first rate of return, a fifteenth investment pool having the assumed average second rate of return, and a sixteenth investment pool having the assumed average third rate of return, when the thirteenth investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing the assets from the fourteenth investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick

and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 20, Singletary and Frattalone disclose, The method according to claim 19. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 20, Arena et al. further discloses, The method according to claim 19, which further comprises:

- converting assets of the fifteenth investment pool into a seventeenth investment pool having the assumed average first rate of return when the fourteenth investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing the assets from the seventeenth investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 21, Singletary and Frattalone disclose, The method according to claim 20. Singletary and Frattalone do not disclose the following however, Arena does:

Regarding Claim 21, Arena et al. further discloses, The method according to claim 20, which further comprises:

- converting the assets of the sixteenth investment pool into an eighteenth investment pool having the assumed average first rate of return when the seventeenth investment pool is exhausted; **(¶ 8, 66, 67, 71, 115, 116)**
- distributing assets from the eighteenth investment pool as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened, and average returns increased, through diversification, i.e. by dividing investment capital among a variety of investments in different asset classes and/or with different risk, reward, and other characteristics (as taught by Frattalone in at least paragraph 0009).

Regarding Claim 25, Singletary & Frattalone discloses, The method according to claim 13.

Regarding Claim 25, Singletary & Frattalone fail to disclose,

- which further comprises periodically reviewing a value of each of the investment pools and rebalancing values of all the investment pools as needed.

Regarding Claim 25, Arena et al. discloses,

- which further comprises periodically reviewing a value of each of the investment pools and rebalancing values of all the investment pools as needed. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Arena because it is a quick and convenient that risk can be lessened and to maximized the return on the investment.

13. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singletary in view of Frattalone as applied to claim 1 above, and further in view of Manning [U.S. Pub. No. 2004/0088236].

Regarding Claim 8, Singletary and Frattalone disclose, The method according to claim 1.

Regarding Claim 8, Singletary fails to disclose:

- designating an annual amount of funds needed to be withdrawn per year;
- setting a size of the first portion initially held in the first investment pool to be at least three times the annual amount.

Regarding Claim 8, Manning discloses:

- designating an annual amount of funds needed to be withdrawn per year; **(¶ 21, 32, 35, 46, 47)**

- setting a size of the first portion initially held in the first investment pool to be at least three times the annual amount. **(¶ 21, 32, 35, 46, 47)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Manning because it is a quick and convenient to prevent outliving the fund. **(¶41 from Manning)**

<u>Regarding Claim 9</u>, Singletary and Frattalone disclose, The method according to claim 8. Singletary and Frattalone do not disclose the following however, Manning does:

<u>Regarding Claim 9</u>, Manning further discloses, The method according to claim 8, which further comprises:

- setting a size of the second portion to be initially held in the second investment pool to be at least three times the annual amount; **(¶ 21, 32, 35, 46, 47)**

<u>Regarding Claim 9</u>, Manning fails to disclose,

- putting all remaining assets in the third investment pool.

<u>Regarding Claim 9</u>, Arena et al. further discloses,

- putting all remaining assets in the third investment pool. **(¶ 8, 66, 67, 71, 115, 116)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Manning because it is a quick and convenient that risk can be lessened and to maximized the return on the investment through diversification of the portfolio while eliminating the need to raise additional capitol for the investment.

14. Claims 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singletary in view of Frattalone in further view of Arena as applied to claim 1 above, and further in view of Manning [U.S. Pub. No. 2004/0088236].

Regarding Claim 10, Arena et al. discloses, The method according to claim 5, which further comprises:

- putting all remaining assets of the third investment pool into the sixth investment pool. **(¶ 8, 66, 67, 71, 115, 116)**

Regarding Claim 10, Arena et al. fails to disclose,

- setting a size of the fifth investment pool to be at least three times an annual amount to be withdrawn over a course of a year.

Regarding Claim 10, Manning discloses,

- setting a size of the fifth investment pool to be at least three times an annual amount to be withdrawn over a course of a year; **(¶ 21, 32, 35, 46, 47)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to [combine/modify] the method of Singletary & Frattalone with the technique of Manning because it is a quick and convenient that risk can be lessened and to maximized the return on the investment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KITO R. ROBINSON** whose telephone number is **(571)270-3921**. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kambiz Abdi** can be reached on **(571) 272-6702**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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/Kito R Robinson/
Examiner, Art Unit 3692

29 March 2009

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692